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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,857	10/25/2001	Steven Hilles Taylor	9D-HR-19764	9984

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,857

Applicant(s)

TAYLOR ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 9, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In an effort to expedite the prosecution of the application [compact prosecution], the examiner spoke to applicant's representatives [Mr. Thomas Fisher #47,564 & Mr. Rosel Williams #44,403] on February 11th & 12th 2004 in an effort to place the application in condition for allowance [proposing amendments to the claims – amending claim 1 so as to obviate a pending 112(2) rejection, while adding dependent limitations into independent claims 6 & 11, and canceling the non-elected claims on record]. Upon further discussion on the merits, it was evident that no agreement would be reached as to the examiner's proposal; as such, the following is a 2nd non-final action on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is misdescriptive of the embodiment depicted in figures 1-5 since the claim stipulates that “one of said mullion engagement portion and said casing comprising a retaining tongue and the other of said bottom mullion engagement portion and said casing comprising an engagement surface for being received in said tongue”. As such, the engagement surface [viewed as part of element 220 as noted in the specification] cannot be received in the tongue [viewed as 240 as noted in the specification]. The engagement surface is described in the specification as being “received between the tongue 240 and case bottom panel

lower surface 234", and is correctly substantiated via the figures. In view of the application as filed, the casing would need to positively establish the bottom panel lower surface and the tongue for accepting the engagement surface positively associated with the mullion in order for the claim to meet the functional limitation as prescribed by applicant. Consequently, the remaining claims are rejected because they are dependent upon an indefinite claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10 & 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kordes [U.S. Patent No. 4,134,626]. As to claims 1-5, Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a bottom mullion (30 e.g.,) comprising a pair of adjacent channels (depicted in fig. 4) and an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4) proximate a base portion of an adjacent channel; and a casing (12) comprising a retaining tongue (18 – as best understood by the examiner), the engagement portion including an engagement surface (surface of the flat portion) for being received in the tongue. The cabinet comprising a bottom rail (36) that is received in one of channels of the mullion (bottom channel – fig. 5). The cabinet comprising at least one inner liner (24) and foam insulation (28) between the liner and the casing. The liner being received within one of the channels of the mullion (top channel – fig. 5). The bottom mullion comprising an

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extended flat portion (at the end of lower flat portion of the engagement portion) for “press fit” engagement with the tongue when element (36) is present.

As to claims 6-8 & 10, Kordes (figures 1-7) teaches of a refrigeration appliance cabinet comprising: a bottom mullion (30 e.g.) comprising a pair of adjacent channels (depicted in fig. 4) and an engagement portion (lower flat portion of the bottom mullion as depicted in fig. 4); and a casing (12) having an outer surface (surface of element 16) with a fastening projection (viewed as element 18) extending from the outer surface. The engagement portion comprising a flat engagement surface (surface of the flat portion) that engages the engagement surface (note fig. 5) and constitutes a “press fit” engagement when element (36) is present.

As to claims 11-13, Kordes teaches of a casing (12), a mullion (30) and an inner liner (24) within the casing and comprising at least one compartment [interior compartment of the refrigerator], The mullion having adjacent channels (as noted above) with opposing side surfaces, the mullion configured for receiving a portion of the inner liner (top channel – fig. 5) with one of the channels, and the casing configured to receive a portion of the mullion with “press fit” engagement via element (36 e.g.). The cabinet further comprising a lower rail (36) that is configured to be received in the other channel of the mullion (bottom channel – fig. 5).

Response to Arguments

5. Applicant’s arguments, see paper #15, filed December 4, 2003, with respect to the rejection(s) of claim(s) 1-4, 6-9 & 11-14 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon

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further consideration, a new ground(s) of rejection is made in view of the previously cited reference to Kordes [rearrangement of cited elements].

Allowable Subject Matter

6. Pending further consideration, Claims 1-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

7. Pending further consideration, Claims 9 & 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form **including all of the limitations of the base claim and any intervening claims.**

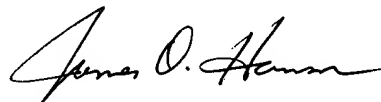
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 703-305-7414. The examiner can normally be reached on Mon.-Fri. 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
February 13, 2004